



April 18, 2013

Mr. Kent L. Jones, P.E.
Utah State Engineer
P.O. Box 146300
Salt Lake City, Utah 84114

Re: *2005 Distribution Order/Beaver River Basin*
Beaver City Power Generation Storage

Dear Mr. Jones:

I have recently received a letter from Marbury, Wright and James regarding their request for certain information and clarification in relation to the 2005 Interim Distribution Order (IDO). In addition to the documentation requested on behalf of Kents Lake Reservoir Company, I am also requesting a copy of all correspondence including mail, emails or other written communication between any entity and/or individual, and the Division of Water Rights concerning the IDO as well as any inter-office memoranda, documents or communications or any discussions between Division of Water Rights personnel concerning the drafting of the IDO. I have incorporated the enclosed GRAMA Request.

It would be appreciated that before the Division takes any steps in this matter to change the IDO, this information be provided to my office so that I can review the same in order to form a more detailed position with regard to Beaver City's opposition to any changes.

Your assistance in providing this information is greatly appreciated and I invite you to contact me with any additional questions, comments or concerns that you have. Thank you for your anticipated cooperation in this matter.

Sincerely,

Justin W. Wayment
Attorney for Beaver City

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APR 24 2013 JH
WATER RIGHTS
SALT LAKE

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UTAH GOVERNMENT RECORDS REQUEST FORM

TO: Department of Natural Resources / Division of Water Rights
(Name of government office holding the records and/or name of agency contact person.)

Address of government office: 1594 West North Temple, Suite 220
P.O. Box 146300, Salt Lake City UT 84114-6300

Description of records sought (records must be described with reasonable specificity):

See Attached Exhibit "A"

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I would like to inspect (view) the records.

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I would like to receive a copy of the records. I understand that I may be responsible for fees associated with copying charges or research charges as permitted by UCA 63G-2-203. I authorize costs of up to \$

☐

UCA 63G-2-203 (4) encourages agencies to fulfill a records request without charge. Based on UCA 63G-2-203 (4), I am requesting a waiver of copy costs because:

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releasing the record primarily benefits the public rather than a person. Please explain:

The records are being requested by Beaver
City for the benefit of the City.

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I am the subject of the record.

☐

I am the authorized representative of the subject of the record.

☐

My legal rights are directly affected by the record and I am impoverished.
(Please attach information supporting your request for a waiver of the fees.)

If the requested records are not public, please explain why you believe you are entitled to access.

☐

I am the subject of the record.

☐

I am the person who provided the information.

☐

I am authorized to have access by the subject of the record or by the person who submitted the information.
Documentation required by UCA 63G-2-202, is attached.

☐

Other. Please explain:

☐

I am requesting expedited response as permitted by UCA 63G-2-204 (3)(b). (Please attach information that shows your status as a member of the media and a statement that the records are required for a story for broadcast or publication; or other information that demonstrates that you are entitled to expedited response.)

Requester's Name: Beaver City

Mailing Address: _____

Daytime telephone number: 435-438-2451 Date: 4/19/2013

Signature: [Signature]

EXHIBIT "A"

All recordings, e-mails, interoffice memorandums, agreements, letters, drafts, correspondence, communications, memos, notes, and any other documents drafted or written for purposes of discussing or addressing the 1953 Memorandum Agreement, the 1967 Memorandum Agreement, the 2005 Interim Distribution Order, (regarding Kents Lake Reservoir Company, Rocky Ford Irrigation Company, Lower Beaver Water Users, and Upper Beaver Water Users) from the years 2000 to the present date of this GRAMA request. This request is intended to include any documents or communications between interoffice employees of the Department of Natural Resources, Division of Water Rights, and any third party entities, persons, water companies, or other legal entities which have corresponded with the Division of Water Rights regarding this matter.



JON M. HUNTSMAN, JR.
Governor

GARY R. HERBERT
Lieutenant Governor

State of Utah

DEPARTMENT OF NATURAL RESOURCES

Division of Water Rights

MICHAEL R. STYLER
Executive Director

JERRY D. OLDS
State Engineer/Division Director

BEAVER RIVER REGULATION OF RESERVOIR STORAGE

INTERIM DISTRIBUTION ORDER

RESERVOIR STORAGE

The attached "General Schedule and Schematic" dated 02/28/2005 and "General Description and Relative Priority" dated 02/28/2005 are incorporated into these instructions to the water commissioner by reference.

Water may be stored in Minersville Reservoir, Three Creeks Reservoir, and Kent's Lake Reservoirs according to the relative priority schedule shown on the "General Schedule and Schematic" and subject to the limitations described in the "General Description and Relative Priority".

Any deviation from the relative priority schedule must be based on water right change applications that have been submitted to and approved by the State Engineer.

THE FLOW OF BEAVER RIVER ABOVE PATTERSON DAM

When no storage is occurring in either Three Creeks Reservoir or the Kent's Lake Reservoirs, the flow of the river will be determined as the flow measured at the USGS gauging station at the mouth of Beaver Canyon (#10234500). At any time water is being stored in or released from any or all of the reservoirs, the flow of the river will be calculated from the following formula:

$$\text{Beaver River Flow} = \text{USGS} + (\text{TCI} - \text{TCO}) + (\text{KLI} - \text{KLO})$$

Where

USGS = the flow measured at the USGS gauging station at the mouth of Beaver Canyon

TCI = the calculated inflow to Three Creeks Reservoir

TCO = the measured outflow from Three Creeks Reservoir

KLI = the calculated inflow to the Kent's Lake Reservoirs

KLO = the measured outflow from Kent's Lake Reservoirs

The flow of the river shall be calculated as often as necessary for an accurate distribution of Beaver River direct flow, reservoir storage, and reservoir storage releases. At a minimum it shall be calculated weekly.

THE FLOW OF BEAVER RIVER BELOW PATTERSON DAM

The flow is determined as the sum of all the measured diversions below Patterson Dam.

The flow of the river below Patterson Dam shall be determined as often as necessary for an accurate distribution of the water.

THREE CREEKS RESERVOIR INFLOW

The inflow to the reservoir is calculated from the following formula:

$$\text{Three Creeks Inflow} = [(TCcs/T) \times 12.10] + TCOa$$

Where

TCcs = the change in storage content at Three Creeks Reservoir since the previous measurement in acre-feet (may be a positive or negative number);

T = the elapsed time since the previous measurement in hours (the time of each measurement should be recorded at least to the closest hour);

12.10 = multiplier factor to convert acre feet per hour (af/h) to cubic feet per second (cfs);

TCOa = the average of the outflow measurement taken at the time of the previous reservoir content measurement and the current outflow measurement in cfs.

KENT'S LAKE RESERVOIR INFLOW

The inflow to the reservoir is calculated from the following formula:

$$\text{Kent's Lake Inflow} = [(KLucs/T) \times 12.10] + [(KLmcs/T) \times 12.10] + KLOa$$

Where

KLucs = the change in storage content at Upper Kents Lake Reservoir since the previous measurement in acre-feet (may be a positive or negative number);

KLmcs = the change in storage content at Middle Kents Lake Reservoir since the previous measurement in acre-feet (may be a positive or negative number);

T = the elapsed time since the previous measurement in hours (the time of each measurement should be recorded at least to the closest hour);

12.10 = multiplier factor to convert acre feet per hour (af/h) to cubic feet per second (cfs);

KLOa = the average of the outflow measurement taken at the time of the previous reservoir content measurement and the current outflow measurement in cfs.

MINERSVILLE RESERVOIR INFLOW

The inflow to the reservoir is calculated from the following formula:

$$\text{Minersville Inflow} = [(Mcs/T) \times 12.10] + MOa$$

Where

Mcs = the change in storage content at Minersville Reservoir since the previous measurement in acre feet (may be a positive or negative number);

T = the elapsed time since the previous measurement in hours (the time of each measurement should be recorded at least to the closest hour);

12.10 = multiplier factor to convert acre feet per hour (af/h) to cubic feet per second (cfs);

MOa = the average of the outflow measurement taken at the time of the previous reservoir content measurement and the current outflow measurement in cfs.

COMMISSIONER'S REPORT

In addition to the diversion data currently reported by the commissioner, the following data shall be included in the Beaver River Commissioner's reports beginning with the report for 2005:

- The inflow to Three Creeks Reservoir for every date it was calculated;
- The outflow of Three Creeks Reservoir for every date it was measured;
- The storage content of Three Creeks reservoir for every date it was measured;
- The inflow to Kent's Lake Reservoirs for every date it was calculated;
- The outflow from Kent's Lake Reservoirs for every date it was measured;
- The storage content of each of the Kent's Lake Reservoirs for every date they were measured;
- The inflow to Minersville Reservoir for every date it was calculated;
- The outflow of Minersville Reservoir for every date it was measured;
- The storage content of Minersville reservoir for every date it was measured;
- The flow of the Beaver River above Patterson Dam for every date it was calculated;
- The flow of the Beaver River below Patterson Dam for every date it was calculated;

Although this order is adopted on an interim basis, it will remain in effect until another Distribution Order from the State Engineer supercedes it. The implementation and operation of this order will be reviewed and comments taken after the close of the 2005 irrigation season.

Jerry D. Olds
Jerry D. Olds, P.E.
State Engineer

3/1/05
Date

Received Copy 1-23-04

No. 77054
Filed Office of
Beaver Co. Recorder
at 11:00 o'clock A.M.
Oct. 2, 1952
Book Name #8, Page 31

File A-13420

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MEMORANDUM AGREEMENT

THIS MEMORANDUM AGREEMENT made at Salt Lake City, Utah, this 2nd day of April, 1953, by and between the ROCKY FORD IRRIGATION COMPANY, a Utah corporation, with its principal place of business in Beaver County, Utah, hereinafter called "Rocky Ford", and KENT'S LAKE RESERVOIR COMPANY, a Utah corporation, with its principal place of business in Beaver County, Utah, hereinafter called "Kent's Lake",

WITNESSETH:

WHEREAS, Rocky Ford has various rights to the use of water of the Beaver River and its tributaries, including Application No. 1215, Certificate No. 2388, issued by the State Engineer of the State of Utah; and

WHEREAS, Kent's Lake has various rights to the use of the waters of the Beaver River and its tributaries, including a right decreed by the District Court of Beaver County on November 13, 1931, in Civil Case No. 625, entitled "Hardy et al, v. Beaver County Irrigation Co., et al", to store 1660 acre feet of water (830 acre feet of which was changed to Three Creeks Reservoir site by Change Application No. (2-1413), and Application No. 13420 for 1193 acre feet; and

WHEREAS, certain of the stockholders of Kent's Lake are the owners of various decreed rights to use water from the Beaver River system by direct flow rather than from storage; and

WHEREAS, the priority date of the water right of Kent's Lake for its said 1660 acre feet is 1890, and the priority date of Rocky Ford under its Certificate No. 2388 for 25,447.5 acre feet is February 25, 1907, and the priority date of Kent's Lake's Application No. 13420 for 1193 acre feet is March 8, 1940, and the priority dates of the direct flow rights of the various stockholders of Kent's Lake referred to herein have priority dates of 1890 and earlier; and

WHEREAS, the parties hereto desire to provide for the practical administration of storage under the water rights mentioned above and to prevent future controversy concerning the diversion for storage under said water rights;

NOW, THEREFORE, in consideration of the mutual promises and covenants

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ants contained herein, and of the premises, and of other good and valuable consideration, the parties mutually agree as follows:

1. That the various stockholders of Kent's Lake who have direct flow rights in the Beaver River desire to file with the State Engineer of the State of Utah appropriate change applications designed to secure the right to store under said rights, if they so elect, not to exceed 1193 acre feet of water per annum in the existing Kent's Lake Reservoir on the Beaver River System at Three Creeks.

2. Rocky Ford agrees that so long as said change applications of said Kent's Lake stockholders are filed subject to the terms hereof, it will not protest said attempt to secure the right to store water accruing under said direct flow rights in the Three Creeks Reservoir.

3. If said right to store up to 1193 acre feet of water accruing under the direct flow rights in Kent's Lake's Three Creeks Reservoir can be perfected, Kent's Lake or its stockholders can in their discretion store water under said change applications or utilize the same under existing rights by direct flow.

4. After the Beaver River at the U. S. G. S. measuring station at the mouth of the Beaver Canyon reaches a flow of 161.31 c.f.s., Kent's Lake may store, in addition to storage under its direct flow rights, as set forth in paragraph 3 hereof, in its Three Creeks Reservoir all water available to it at that point until its reservoir is filled, or until it has stored 830 acre feet, under its above described decreed storage rights, as changed by application No. A 1413, whichever occurs first. Thereafter Kent's Lake will make no further storage in Three Creeks (except under its direct flow rights) unless and until Rocky Ford has diverted for storage in its Rocky Ford Reservoir on the Beaver River sufficient water so that it would have filled up to the 48 foot contour line, which has an impounding capacity at that level of 20,120.3 acre feet. Thereafter Kent's Lake and Rocky Ford may from the combined water available to them, under their combined rights, for storage, each store on

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a ratio of 15 acre feet to Kent's Lake for each 85 acre feet stored by Rocky Ford. It is mutually acknowledged that there may not be sufficient water available to Kent's Lake at the Three Creeks Reservoir at any given time to permit it to store on a full ratio of 15 acre feet to Kent's Lake for 85 acre feet for Rocky Ford, in which event Rocky Ford may nevertheless store all water available to it. However, at such times as water is available, after (a) the flow of the Beaver River at the U.S.G.S. measuring station at the mouth of Beaver Canyon has reached a flow of 161.31 c.f.s., or more, so that storage rights of the parties are entitled to water, and (b) Kent's Lake has filled its Three Creeks Reservoir, or until in addition to storage under direct flow rights it has stored in its Three Creeks Reservoir 830 acre feet, (its decreed storage right) and (c) there has been diverted into and impounded for storage in the Rocky Ford reservoir sufficient water so that it would have filled to the 48 foot contour, then the parties hereto may store in their reservoirs in the ratio of 15 acre feet to Kent's Lake and 85 acre feet to Rocky Ford, and Kent's Lake agrees that it will release through the Three Creeks Reservoir all water above that to which it is thus entitled. Kent's Lake agrees that after it has filled its reservoir once during a season, that it has no right as against Rocky Ford to refill. Rocky Ford agrees that the proration on the basis set forth above will start when the water in storage at the beginning of the season (November 1st of each year), together with storage during the current season would have caused the water to reach the 48 foot contour had there been no usage from the reservoir.

5. It is mutually acknowledged that Rocky Ford contemplates the enlargement of its reservoir, and Kent's Lake agrees that it will not oppose such enlargement.

6. Rocky Ford has exclusive right to store all water available to it from November 1st of one year to the following April 1st.

7. Water being diverted into storage in lieu of direct flow rights at Three Creeks after April 1st of each year shall be added to the flow of the river at the U. S. G. S. measuring station at the mouth of Beaver Canyon